

HOUSE BILL NO. 584

INTRODUCED BY N. FRITZ

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING AN EMPLOYER TO EMPLOY A CERTIFIED TEACHER OR SPECIALIST WHO RETIRED ON OR BEFORE AUGUST 21, 2000, WITHOUT THE LOSS OR INTERRUPTION OF TEACHER RETIREMENT BENEFITS; DEFINING "EMPLOYER"; REQUIRING AN EMPLOYER TO REPORT MONTHLY EMPLOYMENT DATA TO THE OFFICE OF PUBLIC INSTRUCTION AND THE TEACHERS' RETIREMENT SYSTEM; LIMITING THE CALCULATION OF BENEFITS IF A RETIRED MEMBER RETURNS TO TEACHING; REQUIRING A REPORT BY THE OFFICE OF PUBLIC INSTRUCTION AND THE TEACHERS' RETIREMENT SYSTEM TO THE 2003 LEGISLATURE; AMENDING SECTION 19-20-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reemployment of certain retired teachers or specialists -- limitations

-- employer defined. (1) A teacher or specialist who retired on or before August 31, 2000, may be employed on a part-time or full-time basis by an employer without the loss or interruption of any payments of retirement benefits if:

(a) the member is fully or temporarily certified by the office of public instruction; and

(b) the employer provides evidence to the office of public instruction each year that the employer has been unable to fill the position with a nonretired teacher or specialist.

(2) An employer shall by the 15th day of each month report to the office of public instruction and to the teachers' retirement system the name, social security number, and gross earnings of each teacher or specialist employed in the preceding month under the provisions of this section.

(3) A retired member reemployed under this section is ineligible for active membership under 19-20-302.

(4) The office of public instruction and the teachers' retirement system shall report to the appropriate committee in the 2003 legislative session regarding the implementation and results of this section.

(5) As used in this section, "employer" means a K-12 school district, the Pine Hills youth correctional facility, the Riverside correctional facility, and the Montana school for the deaf and blind.

NEW SECTION. Section 2. Termination or recalculation of retirement benefits. (1) All payments of retirement benefits must be terminated if a retired member, after being reemployed under the provisions of [section 1] without the loss or interruption of retirement benefit payments, subsequently elects to become an active member.

(2) Upon retirement as an active member, all employee and employer contributions due under 19-20-602 and 19-20-605 must be withheld and reported by the employer to the teachers' retirement system.

(3) At the time the member terminates employment and retires, a second retirement benefit must be calculated pursuant to this section based only on the service and compensation earned after the date of reemployment and must be added to the original benefit that the retired member was receiving at the time the member was reemployed under [section 1].

Section 3. Section 19-20-804, MCA, is amended to read:

"19-20-804. Allowance for service retirement. (1) Upon termination, an eligible member must receive a retirement allowance equal to one-sixtieth of the member's average final compensation, as limited by 19-20-715, multiplied by the sum of the number of years of creditable service and service transferred under 19-20-409.

(2) Except as provided in [section 1] or subsection (4) of this section, a retired member may be employed part-time in a position specified in 19-20-302 and may earn, without loss of retirement benefits, an amount not to exceed the greater of:

(a) one-third of the sum of the member's average final compensation plus normal annual salary increases for teaching personnel employed by the school district, state agency, political subdivision, or university unit that employed the member at the time of retirement; or

(b) one-third of the median of the average final compensation for members retired during the preceding fiscal year as determined by the retirement board.

(3) (a) Except as provided in [section 1] and subsection (4) of this section, the retirement benefit of a retired member employed in a full-time position or earning more than allowed by subsection (2) must

1 be canceled beginning the month in which the retired member returns to full-time employment or earns
2 more than allowed.

3 (b) The retirement benefits of a retired member who was employed in a full-time position or who
4 exceeded the amount that the retired member was eligible to earn under subsection (2) and who was
5 reemployed for less than 1 year must, upon termination of employment, be reinstated beginning the later
6 of either the month following termination or July 1 of the school year following the date on which the
7 retired member was reemployed. The reinstated retirement benefit is the amount that the retired member
8 would have been entitled to receive had the retired member not returned to employment.

9 (c) Upon retirement after cancellation of a retired member's benefit pursuant to subsection (3)(a),
10 a retired member who is reemployed as an active member for a minimum of 1 year of full-time service
11 must receive a recalculated benefit. The recalculated benefit is based on the service credit accumulated
12 at the time of the member's previous retirement plus any service credit accumulated subsequent to
13 reemployment.

14 (4) If an early-retired member under 19-20-802 is reemployed with the same employer within 30
15 days from the member's effective date of retirement or if the early-retired member is guaranteed
16 reemployment with the same employer, the member must be considered to have continued in the status
17 of an active member and not to have separated from service. Any retirement allowance payments received
18 by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and
19 the retirement allowance must be terminated."

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21 NEW SECTION. Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified
22 as an integral part of Title 19, chapter 20, part 8, and the provisions of Title 19, chapter 20, part 8, apply
23 to [sections 1 and 2].

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25 NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that
26 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
27 act].

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29 NEW SECTION. Section 6. Effective date -- applicability. [This act] is effective on passage and
30 approval and applies to teachers and specialists who are employed for the school fiscal year beginning on

1 or after [the effective date of this act] and who are earning more than one-third of the average final
2 compensation provided for under 19-20-804.

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4 NEW SECTION. **Section 7. Termination.** [This act] terminates June 30, 2003.

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